

REMARKS

Applicants amended the specification and certain claims to address the objections in the Office Action. Claim 22 is canceled, and claims 16, 17, and 54 are amended. Claims 16-21 and 51-64, of which claim 16 is the only independent claim, are presented for examination.

The Examiner rejected claims 16-19, 22, 51-57 and 59-64 under 35 U.S.C. §112, first paragraph, as not providing enablement for other methods claimed. Applicants do not agree, but in any case, the claim amendments herein make this issue moot. Applicants request that the rejection be withdrawn.

The Examiner rejected claims 16-19, 22, and 53-63 under the doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 5-6, 8-10 and 14-18 of U.S. Patent No. 6,589,612. Applicants do not necessarily agree with this rejection, but to obviate the rejection, Applicants may file a terminal disclaimer upon the indication that the claims are otherwise allowable.

The Examiner rejected claims 16 and 19 under 35 U.S.C. §102(b) as anticipated by Japanese Application 1-159964 (JP '964, English translation provided in the parent application). As amended, claim 16 recites the features of now-canceled claim 22, which was not rejected as anticipated by JP '964. Accordingly, the rejection of claims 16 and 19 should be withdrawn.

Under 35 U.S.C. § 103(a), the Examiner rejected claims 17, 22 and 51 as being unpatentable over JP '964 in view of U.S. Patent No. 4,888,206 (Hope); claims 18 and 52 as being unpatentable over JP '964 in view of Hope and further in view of Sono-Tek Technology Overview (Sonotek); claims 16, 19-21, 53, 55-62 and 64 as being unpatentable over U.S. Patent No. 6,203,941 (Reichert) in view of allegedly admitted state of the prior art and JP '964; claims 17-22, 51, and 63 as being unpatentable over Reichert in view of allegedly admitted state of the prior art, JP '964, and Hope; claims 18-52 as being unpatentable over Reichert in view of allegedly admitted state of the prior art, JP '964, Hope, and Sono-Tek; and claim 54 as being unpatentable over Reichert in view of the allegedly admitted state of the prior art, JP '964, and EP 898 316 (EP '316).

As amended, claim 16 recites a method for applying electrolyte in the manufacture of a battery, comprising applying the electrolyte to a surface in a battery container, the electrolyte being in the form of a spray formed by a vibratory nebulizer.

But none of the cited references disclose or suggest applying the electrolyte to a surface in a battery container, the electrolyte being in the form of a spray formed by a vibratory nebulizer, as claimed. JP '964 is directed to applying electrolyte to a flow field plate, or a press-molded carbon separator, of a fuel cell. There is no indication that the electrolyte is applied to a surface in a battery container because JP '964 has nothing to do with batteries. Hope is directed to coating a flat substrate with an anode material such as lithium metal. While Hope is directed to batteries, and the batteries presumably have an electrolyte, Hope does not provide any indication that the electrolyte is applied by spraying. Hope also does not disclose or suggest applying any battery material in a battery container, as claimed. Reichert does disclose applying a battery material as a spray in a battery container, but the material is a separator material, not an electrolyte. Similar to Hope, Reichert's batteries presumably have an electrolyte, but there is no indication that Reichert applies the electrolyte in the form of a spray in a battery container.

With regard to Applicants' Background section, while it does disclose that an electrolyte can be applied to a surface in battery container, there is no suggestion that the electrolyte be applied in the form of a spray.

Thus, to reject the claims, the Examiner needed to cobble together three references in piecemeal fashion to arrive at the claims. In particular, the Examiner applied electrolyte spraying from JP '964, using a vibratory nebulizer from Hope, and applying a battery component in a battery container from Reichert. But JP '964 is directed to fuel cells and has nothing to do with batteries, as claimed; thus, one skilled in the art of batteries would not have looked to JP '964. And while Hope and Reichert both describe manufacturing batteries that presumably have an electrolyte, and both references describe spraying a battery component, neither references disclose or suggest spraying an electrolyte. The Examiner reasoned that since Reichert describes spraying a separator material, then it would be desirable to continue the spray application by applying an electrolyte with the separator since the electrolyte is to be impregnated in the

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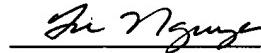
separator anyway. But this conclusory assertion has no support in the record. There is no indication that spraying an electrolyte with the separator would work. For example, the electrolyte (such as an alkaline electrolyte) may affect the solidification (e.g., curing, gelling, cross-linking, or polymerization) of the separator precursor such that a separator is not formed. Therefore, in light of the above amendments and remarks, Applicants request that the rejection be withdrawn.

Applicants note that, in the Office Action, the Examiner took a number of positions and asserted that the Examiner's positions are well known. Applicants do not concede to these positions. Applicants believe that the claims are patentable for at least the reasons discussed above and reserve the right to address these positions later, if necessary.

Applicants believe the claims are in condition for allowance, which action is requested.
Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

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